

Applicant : J. Stuart Cumming  
Appl. No. : 09/740,679  
Examiner : Eduardo C. Robert  
Docket No. : 13533.4033

### Remarks

Reconsideration of this application is requested.

Applicant intends to file an appropriate terminal disclaimer in due course.  
The potential allowance of Claims 106 and 104 is noted.

At present, the active claims are Claims 53-57, 59, 61, 73, 74, 77, 90, 99, 102 and 104-106 of which Claims 53, 90 and 105 are independent claims and are amended herewith. Independent Claims 53, 90 and 105 have been amended to further define over the cited prior art even though it was believed that these claims suitably defined over the cited art.

It is respectfully submitted that the Examiner has not given sufficient weight to the recitation of a solid flexible optic which for the present lens is an important distinction. Schlegel '597 specifically describes stiffening ribs or ridges to give the lens more rigidity, and refers to the rigidity of the lens; whereas, the present lens is mobile and flexible. None of Schlegel '597, Schlegel '406, Kalb '457 nor Portnoy '761 is designed to move along the optic axis of the eye to provide accommodation; rather, their designs are such that they remain stationary within the eye to provide a fixed focus. The independent claims have been further revised to define a "refractive optic" to better distinguish from the Fresnel lens of Schlegel '406. The Kalb '457 lens is a hollow bag and the optic and haptics are inflatable, and it is believed that the definition of "solid flexible refractive optic" distinguishes thereover. Portnoy '61 is a lens designed to function as a telescope; whereas, the present lens is a single bi-convex optic which functions as a single optic, and reference to "as a single optic" has been included in the independent claims to further define over this patent.

Finally, Tenent '509 has a rigid optic and is incapable of accommodating since the outer ends are not in contact with the ciliary muscle which is the basis for the

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design, construction and operation of the lens of the present application.

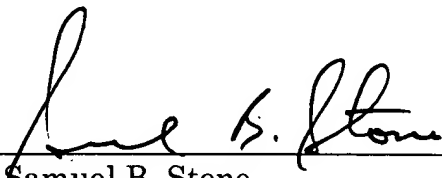
Additionally, the Examiner contends that the manner in which the device is intended to be employed does not differentiate; however, the claims have been amended for example to refer to the "optic being flexible for facilitating maximum movement . . . " and "lens body is constructed and operable to move the optic posteriorily and anteriorily . . . " to add structure to the function.

In view of the foregoing, favorable reconsideration and an indication of allowability of the present claims is respectfully requested. As noted earlier, an appropriate terminal disclaimer will be filed in due course.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,  
ORRICK, HERRINGTON & SUTCLIFFE  
LLP

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By:   
Samuel B. Stone  
Reg. No. 19,297

Orrick, Herrington & Sutcliffe LLP  
4 Park Plaza, Suite 1600  
Irvine, CA 92614-2558  
Tel. 949-567-6700  
Fax: 949-567-6710